

ASSEMBLY BILL

No. 2386

Introduced by Assembly Member Mullin

February 21, 2014

An act to amend Sections 1596.95, 1597.45, 1597.46, and 1597.54 of the Health and Safety Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2386, as introduced, Mullin. Child care facilities: carbon monoxide detectors.

Existing law provides for the licensing and regulation of day care centers and family day care homes by the State Department of Social Services. Existing law requires day care centers and family day care homes to have specified fire prevention devices.

This bill would require day care centers and family day care homes to have one or more functioning carbon monoxide detectors that meet specified statutory requirements in the facility and would require the department to account for the presence of the detectors during inspections.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1596.95 of the Health and Safety Code
- 2 is amended to read:
- 3 1596.95. Any person desiring issuance of a license for a day
- 4 care center or a special permit for specialized services in a day
- 5 care center under this chapter shall file with the department

1 pursuant to regulations, an application on forms, furnished by the
2 department, ~~which~~ *that* shall include, but not be limited to, all of
3 the following:

4 (a) Evidence satisfactory to the department of the ability of the
5 applicant to comply with this act and rules and regulations adopted
6 pursuant to this act by the department.

7 (b) Evidence satisfactory to the department that the applicant
8 is a reputable and responsible character. This evidence shall
9 include, but not be limited to, a criminal record clearance pursuant
10 to Section 1596.871, employment history, and character references.
11 If the applicant is a firm, association, organization, partnership,
12 business trust, corporation, or company, evidence of reputable and
13 responsible character shall be submitted as to the members or
14 shareholders thereof, and the person in charge of the day care
15 center for which application for issuance of license or special
16 permit is made.

17 (c) Evidence satisfactory to the department that the applicant
18 has sufficient financial resources to maintain the standards of
19 service required by regulations adopted pursuant to this act. The
20 information shall be required only upon initial application for
21 licensure, and when requested by the department, in writing,
22 explaining the need for the evidence as part of the department's
23 investigative function.

24 (d) Disclosure of the applicant's prior or present service as an
25 administrator, general partner, corporate officer, or director of, or
26 as a person who has held or holds a beneficial ownership of 10
27 percent or more in ~~any~~ *a* child day care facility or in ~~any~~ *a* facility
28 licensed pursuant to Chapter 1 (commencing with Section 1200),
29 2 (commencing with Section 1250), or 3 (commencing with Section
30 1500).

31 (e) Disclosure of ~~any~~ *a* revocation or other disciplinary action
32 taken, or in the process of being taken, against a license held or
33 previously held by the entities specified in subdivision (d).

34 (f) Evidence satisfactory to the department that there is a fire
35 escape and disaster plan for the facility and that fire drills and
36 disaster drills will be conducted at least once every six months.
37 The documentation of these drills shall be maintained at the facility
38 on a form prepared by the department and shall include the date
39 and time of the drills.

1 (g) *Evidence satisfactory to the department that there is one or*
2 *more functioning carbon monoxide detectors in the facility that*
3 *meet the standards established in Chapter 8 (commencing with*
4 *Section 13260) of Part 2 of Division 12. The department shall*
5 *account for the presence of the detectors during inspections.*

6 ~~(g)~~

7 (h) Evidence satisfactory to the department that the applicant
8 has posted signs at the point of entry to the facility that provide
9 the telephone number of the local health department and state all
10 of the following:

11 (1) Protect your child—it is the law.

12 (2) All the information specified in Sections 27360 and 27360.5
13 of the Vehicle Code regarding child passenger restraint systems.

14 (3) Call your local health department for more information.

15 ~~(h)~~

16 (i) Any other information ~~as may be~~ required by the department
17 for the proper administration and enforcement of this act.

18 ~~(i)~~

19 (j) Failure of the applicant to cooperate with the licensing agency
20 in the completion of the application shall result in the denial of the
21 application. Failure to cooperate means that the information
22 described in this section and in regulations of the department has
23 not been provided, or not provided in the form requested by the
24 licensing agency, or both.

25 SEC. 2. Section 1597.45 of the Health and Safety Code is
26 amended to read:

27 1597.45. All of the following shall apply to small family day
28 care homes:

29 (a) The use of single-family residence as a small family day
30 care home shall be considered a residential use of property for the
31 purposes of all local ordinances.

32 (b) No local jurisdiction shall impose ~~any~~ a business license,
33 fee, or tax for the privilege of operating a small family day care
34 home.

35 (c) Use of a single-family dwelling for purposes of a small
36 family day care home shall not constitute a change of occupancy
37 for purposes of Part 1.5 (commencing with Section 17910) of
38 Division 13 (State Housing Law) or for purposes of local building
39 codes.

(d) A small family day care home shall not be subject to Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of Chapter 1 of Part 2 of *Division 2*, except that a small family day care home shall contain a fire extinguisher and smoke detector device that meet standards established by the State Fire Marshal *and one or more functioning carbon monoxide detectors that meet the requirements of Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of the carbon monoxide detectors during inspections.*

SEC. 3. Section 1597.46 of the Health and Safety Code is amended to read:

1597.46. All of the following shall apply to large family day care homes:

(a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

(1) Classify these homes as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to ~~any~~ a large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and ~~any~~ regulations adopted by the State Fire Marshal pursuant to that subdivision. ~~Any noise~~ Noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. The permit issued pursuant to this paragraph shall be granted by the zoning ~~administrator~~, *administrator* or, if there is no zoning administrator, by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require ~~any~~ a large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning ~~administrator~~, *administrator* or, if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the large family day care home complies

1 with local ordinances, if any, prescribing reasonable standards,
2 restrictions, and requirements concerning the following factors:
3 spacing and concentration, traffic control, parking, and noise
4 control relating to those homes, and complies with subdivision (e)
5 and ~~any~~ regulations adopted by the State Fire Marshal pursuant to
6 that subdivision. ~~Any noise~~ *Noise* standards shall be consistent
7 with local noise ordinances implementing the noise element of the
8 general plan and shall take into consideration the noise levels
9 generated by children. The local government shall process ~~any a~~
10 required permit as economically as possible.

11 Fees charged for review shall not exceed the costs of the review
12 and permit process. An applicant may request a verification of
13 fees, and the city, county, or city and county shall provide the
14 applicant with a written breakdown within 45 days of the request.
15 Beginning July 1, 2007, the application form for large family day
16 care home permits shall include a statement of the applicant's right
17 to request the written fee verification.

18 Not less than 10 days prior to the date on which the decision
19 will be made on the application, the zoning administrator or person
20 designated to handle the use permits shall give notice of the
21 proposed use by mail or delivery to all owners shown on the last
22 equalized assessment roll as owning real property within a 100-foot
23 radius of the exterior boundaries of the proposed large family day
24 care home. A hearing on the application for a permit issued
25 pursuant to this paragraph shall not be held before a decision is
26 made unless a hearing is requested by the applicant or other
27 affected person. The applicant or other affected person may appeal
28 the decision. The appellant shall pay the cost, if any, of the appeal.

29 (b) In connection with ~~any an~~ action taken pursuant to paragraph
30 (2) or (3) of subdivision (a), a city, county, or city and county shall
31 do all of the following:

32 (1) Upon the request of an applicant, provide a list of the permits
33 and fees that are required by the city, county, or city and county,
34 including information about other permits that may be required
35 by other departments in the city, county, or city and county, or by
36 other public agencies. The city, county, or city and county shall,
37 upon request of ~~any an~~ applicant, also provide information about
38 the anticipated length of time for reviewing and processing the
39 permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.

(e) A large family day care home shall have one or more functioning carbon monoxide detectors that meet the requirements of Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of the carbon monoxide detectors during inspections.

~~(e)~~
(f) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes, which shall be published in Title 24 of the California Code of Regulations. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, ~~which that~~ meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provisions shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce ~~any~~ a building

1 ordinance or local rule or regulation relating to the subject of fire
2 and life safety in large family day care homes—~~which~~ *that* is
3 inconsistent with those standards adopted by the State Fire Marshal,
4 except to the extent the building ordinance or local rule or
5 regulation applies to single-family residences in which day care
6 is not provided.

7 (f)

8 (g) The State Fire Marshal shall adopt the building standards
9 required in subdivision (d) and any other regulations necessary to
10 implement this section.

11 SEC. 4. Section 1597.54 of the Health and Safety Code is
12 amended to read:

13 1597.54. All family day care homes for children, shall apply
14 for a license under this chapter, except that ~~any a home which~~ *that*
15 on June 28, 1981, had a valid and unexpired license to operate as
16 a family day care home for children under other provisions of law
17 shall be deemed to have a license under this chapter for the
18 unexpired term of the license at which time a new license may be
19 issued upon fulfilling the requirements of this chapter.

20 An applicant for licensure as a family day care home for children
21 shall file with the department, pursuant to its regulations, an
22 application on forms furnished by the department, ~~which~~ *that* shall
23 include, but not be limited to, all of the following:

24 (a) A brief statement confirming that the applicant is financially
25 secure to operate a family day care home for children. The
26 department shall not require any other specific or detailed financial
27 disclosure.

28 (b) (1) Evidence that the small family day care home contains
29 a fire extinguisher or smoke detector device, or both, ~~which~~ *that*
30 meets standards established by the State Fire Marshal under
31 subdivision (d) of Section 1597.45, or evidence that the large
32 family day care home meets the standards established by the State
33 Fire Marshal under subdivision (d) of Section 1597.46.

34 (2) Evidence satisfactory to the department that there is a fire
35 escape and disaster plan for the facility and that fire drills and
36 disaster drills will be conducted at least once every six months.
37 The documentation of these drills shall be maintained at the facility
38 on a form prepared by the department and shall include the date
39 and time of the drills.

1 (3) *Evidence satisfactory to the department that there is one or*
2 *more functioning carbon monoxide detectors in the facility that*
3 *meet the standards of Chapter 8 (commencing with Section 13260)*
4 *of Part 2 of Division 12. The department shall account for the*
5 *presence of the detectors during inspections.*

6 (c) The fingerprints of any applicant of a family day care home
7 license, and any other adult, as required under subdivision (b) of
8 Section 1596.871.

9 (d) Evidence of a current tuberculosis clearance, as defined in
10 regulations that the department shall adopt, for any adult in the
11 home during the time that children are under care.

12 (e) Evidence satisfactory to the department of the ability of the
13 applicant to comply with this chapter and Chapter 3.4 (commencing
14 with Section 1596.70) and the regulations adopted pursuant to
15 those chapters.

16 (f) Evidence satisfactory to the department that the applicant
17 and all other persons residing in the home are of reputable and
18 responsible character. The evidence shall include, but not be limited
19 to, a criminal record clearance pursuant to Section 1596.871,
20 employment history, and character references.

21 (g) Failure of the applicant to cooperate with the licensing
22 agency in the completion of the application shall result in the denial
23 of the application. Failure to cooperate means that the information
24 described in this section and in regulations of the department has
25 not been provided, or not provided in the form requested by the
26 licensing agency, or both.

27 (h) Other information as may be required by the department
28 for the proper administration and enforcement of the act.